

UNITED STATES DISTRICT COURT

for the

Eastern District of California

United States of America

v.

Derwin Wade McCowan

Date of Previous Judgment: 10/30/2006
(Use Date of Last Amended Judgment if Applicable)

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Case No: 1:02-cr-05368-001

USM No: 60921-097

David M. Porter

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 262 months is reduced to 240 months.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 37

Amended Offense Level: 33

Criminal History Category: VI

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Previous Guideline Range: 360 months to Life months

Amended Guideline Range: 235 to 293 months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

The reduced sentence is within the amended guideline range.

☒ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☐ Other (explain):

III. ADDITIONAL COMMENTS

Departure made on grounds of lack of sophistication in drug trafficking street level dealer. No juvenile offenses. Two prior street level drug convictions and misdemeanor burglary over represent criminal history as career offender. Extreme health problems and to avoid crack cocaine disparity justifies departure to level 33 and a sentence of 240

Except as provided above, all provisions of the judgment dated 10/30/2006 shall remain in effect.

IT IS SO ORDERED.

Order Date: February 4, 2009

/s/ OLIVER W. WANGER

Judge's signature

Effective Date: (if different from order date)

OLIVER W. WANGER, US DISTRICT JUDGE

Printed name and title